



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/548,518	04/13/2000	Wallace H. Peterson	P9169	6810

7590 07/17/2002

Todd N Hathaway  
119 N Commercial Street  
#620  
Bellingham, WA 98226-4437

EXAMINER

NGUYEN, CHI Q

ART UNIT	PAPER NUMBER
----------	--------------

3637

DATE MAILED: 07/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/548,518

Applicant(s)

PETERSON, WALLACE H.

Examiner

Chi Q Nguyen

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 April 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-12, and 18-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Larsen (US 5,679,419).

Larsen discloses multiple pane insulating glass unit with insulating space comprising first, second sidewalls 19, 20, a transverse wall portion 22, 24, interconnecting sidewall portions, transverse wall portion 22, 24 being configured to permit sidewall portions to move alternately towards and away from one another in response to inwardly and outwardly directed forces exerted by glass panes 10, 12, a plurality of tab portions 32 formed on edges of first, second webs portions 22, 24, forming an overlap, underlap sliding interfit with tab portions 32 on the same plane having rectangular outer end, first, second edge faces, a particulate desiccant material 40 disposed within hollow interior of tubing 16 forming by rolling stainless steel tubular structure. (See figs. 4-5, cols. 4-11).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 13-17, 28-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larsen (US 5,679,419) in view of Peterson (US 5,581,971) and Taylor (US 5,461,840).

Larsen disclosed the structural elements for the glass spacer except for the tubing has a generally rectangular cross-section, made by roll-formed sheet aluminum alloy material, at least one projecting rib formed on each sidewall portion.

Peterson teaches glass spacer bar for use in multipane window construction having a spacer 10 has an essentially rectangular cross section and hollow, at least one projecting rib 12 formed on each sidewall portion. (See fig. 1, col. 2). Taylor teaches cardboard spacer/seal as thermal insulator forming rolled or extruded metal spacer (see abstract).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify and combine Larsen's invention with Peterson's for rectangular in cross-section tub and at least one projecting rib on sidewall and Taylor's for roll-formed metal sheet. The motivation for doing so would have been to provide more variety in shapes and rigidity for preventing heavy impact.

Larsen, Peterson and Taylor disclosed the structural elements for the glass spacer except for the material is made by aluminum alloy. It would have been obvious having ordinary skill in the art at the time the invention was made to select the spacer as aluminum alloy, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

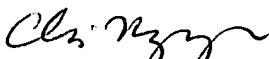
Art Unit: 3637

**Conclusion**

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Thompson (US 5,617,699), Dawson (US 4,479,988), Lacombe (US 4,080,482), Farbstein (US 5,851,627), Wylie (US 5,630,306), Box (US 5,209,034), DE Pat. No. 3521848 teach spacer for an insulating unit.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chi Q. Nguyen whose telephone number is (703) 605-1224, Monday-Thursday (7:00-5:30), Fridays off or examiner's supervisor, Lanna Mai can be reached at (703) 308-2486. The fax number for the organization where this application or proceeding assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

  
CQN  
7/11/02

LANNA MAI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

